
to the order passed by the Authority under the Act. However, we decline to interfere with the order passed by the Income Tax Appellate Tribunal. No costs.

R.N.R.

Before Amar Bir Singh Gill & Swatanter Kumar, JJ

JASPREET KAUR SINGH,—*Petitioner*

versus

BABA FARID UNIVERSITY OF HEALTH SCIENCES,—*Respondent*

C.W.P. No. 9610 OF 2001

30th August, 2001

Constitution of India, 1950—Art. 226—Admission to M.B.B.S. course—Petitioner seeking admission under the NRI quota—University rejecting application having not secured 50% marks in the qualifying examination—Condition of minimum 50% marks neither prescribed in the brochure nor in the notification issued by the Government—NRI candidates exempted from the rigours of securing 50% marks in the qualifying examination—University cannot assume to itself the power to prescribe such restriction—Petition allowed while directing the University to issue eligibility certificate to the petitioner.

Held, that, we are unable to see any justification in the stand of the University that the condition of 50% marks in the compulsory subjects has to be enforced even against the NRI category candidates. If that was the intention of the Government there was hardly any justification in prescribing a specific clause of exemption for the said candidates. The 50% minimum marks eligibility is applicable for the classes stated in the brochure. Furthermore, in absence of such a specific stipulation in the notification issued by the Government, University cannot assume to itself the power to prescribe such restriction. The function delegated to the University is a limited one and the letter impugned is totally contrary to the notified policy and terms and conditions of the brochure.

(Para 9)

ARGUED BY : C.M. MUNJAL, ADVOCATE

ANUPAM GUPTA, ADVOCATE

JUDGMENT

Swatanter Kumar, J.

(1) The petitioner had passed his 9th to 12th grade and was issued a certificate by the Shady Side Academy, 423 Fox Chapel Road, Pittsburgh, USA. The grading passed by the petitioner is stated to be equivalent to 10+2 of the Secondary Board in India. The petitioner being desirous of pursuing MBBS course in India, she, on 21st March, 2001 submitted an application to the Baba Farid University of Health Sciences, Kotkapura Road, Faridkot, for eligibility certificate for seeking admission to the said course. The University vide its letter dated 14th June, 2001 rejected the application of the petitioner and informed her as under :—

“This has reference to your application dated 21st March, 2001 for the issue of eligibility certificate for admission to MBBS course session 2001-2002 under NRI quota.

You are informed that on the basis of the documents received having qualified by you equivalent to 10+2 examination of PSEB/CBSE, you are not eligible for admission to Ist Prof. MBBS course for the session 2001-2002 as you have not scored 87% of aggregate marks in Physics, Chemistry & Biology which is equivalent to 50% marks of our 10+2 system of examination.

Moreover, you have not passed your English as compulsory subject in 9th to 12th grade examination.”

(2) The above letter of rejection is challenged by the petitioner in this writ petition under Articles 226/227 of the Constitution of India. According to the petitioner She had applied under the NRI category and there was no condition prescribed in the brochure or otherwise in the policy of the Government, making it mandatory for an NRI to have 50% minimum qualifying marks in the examination for seeking admission to the medical course. According to the petitioner, the respondent-University has no jurisdiction to impose the said condition nor does it have an appropriate formula for the purposes of preparing the equivalent marks as per the system of their counting. Even the said formula is arbitrary.

(3) Upon notice, the University filed a detailed reply. It was contended on behalf of the respondent-University that as per the terms and conditions of the brochure even a candidate belonging to NRI category has to secure 50% of the aggregate marks in three compulsory subjects viz, Physics, Chemistry and Biology taking together in 10+2 pattern or equivalent examination. According to the University,

the petitioner has secured 80.16 as per the certificate, while she is required to secure 87% marks in three compulsory subjects on the formula prepared by the University and applied equally to all such candidates. Further, according to the University the minimum prescribed marks for passing the course are 70% and the University has adopted the formula of adding 17% marks to the minimum passing marks and, therefore, providing the aggregate as 87% marks, which the petitioner does not have. Thereafter application of this formula is taken for computing the 50% minimum marks as required.

(4) As is clear from the above stand taken by the parties, there is hardly any dispute in regard to the facts. The short controversy that falls for determination before the Court is whether the condition of prescribed minimum marks is applicable to the candidates belonging to NRI category or not. If such a condition is not applicable, in that event the merit of the formula applied by the University for determining the equivalent marks to 50% would be hardly of any consequence.

It is a settled proposition of law that the terms and conditions stated in a brochure and the policy notified by the Government is binding on the students as well as the authorities concerned unless and until altered or amended in accordance with law, upon due notice. Reference in this regard can be made to the Full Bench judgments of this Court in the cases of *Amardeep Singh Sahota Versus State of Punjab and others*,⁽¹⁾ and *Rahul Prabhakar Versus Punjab Technical University, Jalandhar and others*,⁽²⁾. The effect of such law is that the terms and conditions of the brochure will have to be construed strictly for attaining the purpose sought to be achieved by publication and declaration of policy.

(5) At the very out-set we may notice that in furtherance to the notification issued by the Government of Punjab dated 25th of May, 2001, the respondent-University was empowered by the Governor of Punjab to conduct the Punjab Medical Entrance Text- 2001, hereinafter referred to as PME Test-2001, for the purposes of granting admissions to M.B.B.S., B.D.S., B.A.M.S., Bachelor of Physiotherapy and Bachelor of Nursing Courses. The University was further empowered under the terms and conditions to issue certificate of eligibility to the candidates particularly belonging to the NRI category. The power vested in the University was, thus, limited in its scope. The University could not either add or subtract the terms and conditions, eligibility criteria and exemption provided thereto, under terms and conditions of the brochure and the policy notified by the Government. The University has the status only of an agent holding an examination

(1) 1993 (4) SLR 673

(2) 1997 (3) PLR 13

on behalf of the Government for the purposes of admission to medical and other stated courses.

“(6) Clauses 5 and 6 deal with the reservation of seats for NRI/NRI sponsored candidates and the criteria for filling up the said seats. Clause 6(d) specifically states that the NRI sponsored candidates are not required to sit in the PME Test-2001 at all. The eligibility criteria which makes it mandatory for the candidates to take minimum 50% marks in the qualifying examination in the subjects afore-referred is applicable to the candidates who have to take the PME Test-2000. The relevant part of the notification reads as under :—

“3. ELIGIBILITY CRITERIA

A. For MBBS/BDS

The eligibility criteria for sitting in Entrance Test-2001 for admission to MBBS/BDS shall be as following :—

1. He/she has passed qualifying examination as under :—

(a) The Higher Secondary Examination or the Indian School Certificate Examination which is equivalent to 10+2 Higher Secondary Examination after a period of 12 years study, the last two years of study comprising of Physics, Chemistry and Biology after the introduction of the 10+2+3 years education structure as recommended by the National Committee on education :

OR

(b) The intermediate examination in science of an Indian University/Board of recognized examining body with Physics, Chemistry and Biology which shall include a practical test in these subjects and also English as a compulsory subject.

OR

(c) The Pre-professional/pre-medical examination with Physics, Chemistry and Biology, after passing either the higher secondary school examination, or the pre-university or an equivalent examination. The pre-professional/pre-medical examination shall include a practical test in Physics, Chemistry and Biology and also English as a Compulsory subject.

OR

(d) The first year of the three year degree course of a recognized university, with Physics, Chemistry and

Biology including a practical test in these subjects provided the examination is a "University Examination" and candidate has passed 10+2 with English at a level not less than a core course.

OR

- (e) B.Sc. examination of an India University, provided that he/she has passed the B.Sc. examination with not less than two of the following subject—Physics, Chemistry, Biology (Botany, Zoology) and further that he/she has passed the earlier qualifying examination with the following subjects—Physics, Chemistry, Biology and English.

OR

- (f) Any other examination which, in scope and standard is found to be equivalent to the intermediate science examination or an Indian University/Board, taking Physics, Chemistry and Biology including a practical test in each of these subjects and English.

Note—1 Candidate must have passed in the subjects of Physics, Chemistry, Biology and English individually and must have obtained a minimum of 50% marks taken together in Physics, Chemistry and Biology in 10+2 examination. In respect of candidates belonging to scheduled castes, scheduled tribes or other backward class the marks, obtained in Physics, Chemistry and Biology taken together in qualifying examination be 40% instead of 50% as stated above."

Under Clause 3(A)(l)(c) all the candidates seeking admission under NRI quota have been specifically exempted from the conditions stated in Para 3(A)(l)(a) to 3(A)(i)(f). In other words, the applicants belonging to NRI category are exempted from the rigours of the eligibility clause as well as from taking the PME Test-2001.

(7) In the Tribune dated 19th June, 2001 the respondent-University itself published a corrigendum to clarify the criteria of admission to the NRI category. Clause 6 of the said corrigendum reads as under :—

"Criteria for N.R.I./N.R.I. sponsored seats (page-13 of the Prospectus) : In para 6(iv)(a) "2001" should be read instead of "2000". Paras 6(iv)(b) and 6(iv)(c) are cancelled as N.R.I./N.R.I. sponsored candidates are not to sit in

P.M.E.T.—2001. *However, eligibility and equivalency certificate for all categories which include general and Scheduled Castes/Scheduled Tribes/Backward Classes will have to be obtained from Baba Farid University of Health Sciences, Faridkot.*

(8) The above stand of the University was in consonance with the notification issued by the Government and was to clarify the doubt created by incorrect printing of the Clause 6 in the brochure. What is mandatory is that a student should have passed his 10+2 or equivalent examination for the purposes of seeking admission to the medical and other courses under N.R.I. or N.R.I. sponsored category. The condition of minimum 50% marks has to apply only to the persons who have to take the P.M.E. Test-2001 in accordance with the terms of the notification. The reference to granting the seat on merit to N.R.I. candidates obviously refers to the merit of the qualifying examination in the event there are students more than the seats reserved under that quota.

(9) We are unable to see any justification in the stand of the University that the condition of 50% marks in the compulsory subjects, as afore-referred, has to be enforced even against the N.R.I. category candidates. If that was the intention of the Government, there was hardly any justification in prescribing a specific clause of exemption for the said candidates. The 50% minimum marks eligibility is applicable for the classes stated in the brochure. Further more, in absence of such a specific stipulation in the notification issued by the Government, University cannot assume to itself the power to prescribe such restriction. The function delegated to the University is a limited one and the letter impugned (Annexure p/4) is totally contrary to the notified policy and terms and conditions of the brochure.

(10) For the reasons afore-stated we have no hesitation in quashing the letter dated 14th June, 2001 (Annexure p/4). The formula of equivalence adopted by the University is not specifically challenged before us nor do we wish to comment anything in this regard as it is for the specialised bodies to provide criteria for equivalence and we would leave it to the wisdom of the specified authorities to enforce the same formula or to vary the same, if they so desired. In view of the above discussion, we allow the writ petition; quash the impugned letter dated 14th June, 2001 Annexure p/4 and direct the respondent-University to issue eligibility certificate to the petitioner in accordance with the terms of the notification issued by the Government and rules applicable thereto. There shall be no order as to costs.

R.N.R.